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| 10/614,737 | 07/07/2003 | John A. Hicks III | BS02499/ATTWP290USB | 6215 |

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One AT&T Way

Bedminster, NJ 07921

EXAMINER

KASRAIAN, ALLAHYAR

ART UNIT

PAPER NUMBER

2617

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DELIVERY MODE

10/26/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/614,737 | Applicant(s) HICKS ET AL. | |
| | Examiner ALLAHYAR KASRAIAN | Art Unit 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43,45-47,52-54,56,59,60 and 62-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43,45-47,52-54,56,59,60 and 62-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>Aug. 25, 2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 29, 2010 has been entered.

Information Disclosure Statement

2. The information disclosure statement submitted on Aug. 25, 2010 has been considered by the Examiner and made of record in the application file.

Remarks

3. The present Office Action is in response to Applicant's amendment filed on July 29, 2010. **Claims 43, 45-47, 52-54, 56, 59, 60 and 62-71** are now pending in the present application.

Response to Arguments

4. Applicant's arguments with respect to claims 43, 45-47, 52-54, 56, 59, 60 and 62-71 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 43, 45-47, 52-54, 56, 59, 60 and 62-71 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 43 includes the limitation, "wherein the at least one wireless access point coupled to a services node of **a data network**, wherein the services node is configured to initiate a call to a digital cordless handset and a cellular telephone based on **a termination trigger generated via the data network**,"; however, Examiner could not find any part of the specification to support this limitation. Applicant is welcomed to point out where in the specification supports the limitation.

Claim 52 includes the limitation, "initiating a call to a digital cordless handset and a cellular telephone via a services node coupled to *a data network* based on **a termination trigger generated via the data network**"; however, Examiner could not find any part of the specification to support this limitation. Applicant is welcomed to point out where in the specification supports the limitation.

Claim 59 includes the limitation, "a wireless access point coupled to a services node of **a data network**, wherein the services node is configured to initiate a call to a cordless handset and a cellular telephone based on **a termination trigger generated within the data network**,"; however, Examiner could not find any part of the specification to support this limitation. Applicant is welcomed to point out where in the

Art Unit: 2617

specification supports the limitation.

Note: Applicant indicates the support for the claimed limitations are included in par. 0053, 0065 and 0066, However, Examiner could not find any support for the limitations on those paragraph specifically. From FIG. 5 and par. 0053, 0065 and 0066 of the current drawings and specification, it is noticed that the service node 508 belongs to the PSTN 116 not the data network. Furthermore there is nothing to support limitation, "initiate a call to... based on **a termination trigger generated within the data network**".

Dependent **claims 45-47, 53, 54, 56, 60 and 62-71** are also rejected by the virtue of their dependency on **claims 43, 52 and/or 59**.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 43, 45-47, 52-54, 56, 59, 60 and 62-71 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 43 includes the limitation, "wherein the at least one wireless access point coupled to a services node of a data network, wherein the services node is configured to initiate a call to a digital cordless handset and a cellular telephone based on **a termination trigger generated via the data network**,";

Claim 52 includes the limitation, "initiating a call to a digital cordless handset and a cellular telephone via a services node coupled to a data network based on **a**

Art Unit: 2617

termination trigger generated via the data network”;

Claim 59 includes the limitation, "a wireless access point coupled to a services node of a data network, wherein the services node is configured to initiate a call to a cordless handset and a cellular telephone based on **a termination trigger generated within the data network**,".

However, it is unclear what **a termination trigger generated within the data network** means.

For the sake of applying prior art, Examiner interprets the limitations on the independent claims as: “*receiving a call and a termination attempt triggered is generated at a central office;*

wherein a service node of the central office initiates the call to a digital cordless handset via an unregulated wireless network and a cellular telephone serviceable via a cellular network connection;

wherein at least one wireless access point is configured to service the call to the digital cordless handset utilizing an IEEE 802.11b wireless connection”.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the

Art Unit: 2617

claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. **Claims 43, 52, 54, 56, 63-66, 69 and 70** are rejected under 35 U.S.C. 103(a) as being unpatentable over **O'Neil et al. (U.S. Patent # 5963864)** (hereinafter O'Neil) in view of **Rogalski et al. (U.S. Patent Application Pub. # 2004/0141484 A1)** (hereafter Rogalski).

Consider **claims 43 and 52** O'Neil discloses a system comprising:

at least one wireless access point coupled to a services node of a data network (FIGS. 1, 2 and 3 for the service node 30 and the wireless network home base station 42 which is considered as the access point, col. 12 lines 25-61, col. 27 lines 4-26), wherein the services node is configured to initiate a call to a digital cordless handset

Art Unit: 2617

and a cellular telephone based on a termination trigger generated via the data network (FIGS 1-3, col. 4 lines 11-26, col. 7 lines 62-65, col. 27 lines 4-26, consider the digital cordless handset as one of the telephone 20e or 20f),

wherein the call is serviceable via the cellular telephone using a cellular connection (FIGS. 1-3 for the mobile telephone 34, col. 20 line 66 though col. 21 line 47);

However, O'Neil fails to explicitly disclose the digital cordless handset, and wherein the at least one wireless access point is configured to service the call to the digital cordless handset utilizing an IEEE 802.11b wireless connection.

In the same field of endeavor, Rogalski discloses the digital cordless handset, and wherein the at least one wireless access point is configured to service the call to the digital cordless handset utilizing an IEEE 802.11b wireless connection (FIG. 5, par. 0004, 0023, 0029, 0030 for voice data gateway 510 which is considered as the at least one wireless access point connected to the data networks 530 and provides wireless access to a cordless phone 560 using 802.11b standard).

Therefore, it would have been obvious to a person or ordinary skill in the art at the time the invention was made to incorporate a gateway or an access point to provide service to a cordless handset as taught by Rogalski to the telecommunication extension service to a subscriber having different units in wired and wireless network as disclosed by O'Neil for purpose of using a WLAN based on 802.11 technology to provide voice and data service to cordless phones.

Consider **claim 54 as applied to claim 52 above**, and Rogalski further discloses wherein the initiating the call further includes establishing a voice over internet protocol (VoIP) session data network via the wireless access point and the digital cordless handset based on an internet protocol (IP) address (par. 0029, 0044; it is inherently taught that a device using VoIP protocol is required to have an IP address).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a gateway or an access point to provide VoIP service to a cordless handset as taught by Rogalski to the telecommunication extension service to a subscriber having different units in wired and wireless network as disclosed by O'Neil for purpose of using a WLAN based on 802.11 technology to provide voice and data service to cordless phones.

Consider **claim 56 as applied to claim 54 above**, and Rogalski further discloses receiving the telephone number at the digital cordless handset and wherein the establishing the VoIP session further includes establishing the VoIP session based on the telephone number (par. 0029, 0044).

Consider **claim 63**, O'Neil as modified by Rogalski discloses the claimed invention **as applied to claim 43 above**, and O'Neil further discloses wherein the call is an incoming call (col. 21 line 65 through col. 22 line 33).

Art Unit: 2617

Consider **claim 64**, O'Neil as modified by Rogalski discloses the claimed invention **as applied to claim 43 above**, and O'Neil further discloses wherein the call is an outgoing call (col. 21 line 65 to col. 22 line 33; the call could be considered as outgoing call from a caller).

Consider **claim 65 as applied to claim 52 above**, and Rogalski further discloses wherein the initiating the call further includes servicing an incoming call via the IEEE 802.11b wireless connection between the digital cordless handset and the wireless access point (par. 0038, 0047-0048).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a gateway or an access point to provide service to a cordless handset as taught by Rogalski to the telecommunication extension service to a subscriber having different units in wired and wireless network as disclosed by O'Neil for purpose of using a WLAN based on 802.11 technology to provide voice and data service to cordless phones.

Consider **claim 66 as applied to claim 52 above**, and Rogalski further discloses wherein the initiating the call further includes servicing an outgoing call via the IEEE 802.11b wireless connection between the digital cordless handset and the wireless access point (par. 0026, 0047-0048).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a gateway or an access point to provide

Art Unit: 2617

service to a cordless handset as taught by Rogalski to the telecommunication extension service to a subscriber having different units in wired and wireless network as disclosed by O'Neil for purpose of using a WLAN based on 802.11 technology to provide voice and data service to cordless phones.

Consider **claims 69**, O'Neil as modified by Rogalski discloses the claimed invention **as applied to claim 43 above**, and O'Neil further discloses service control point configured to query, based on the termination trigger, whether a database includes subscriber information associated with the call, wherein the services node is further configured to initiate the call to the digital cordless handset and the cellular telephone based on the subscriber information (col. 12 lines 11-24).

Consider **claims 70**, O'Neil as modified by Rogalski discloses the claimed invention **as applied to claim 43 above**, and O'Neil further discloses querying, via a service control point, subscriber information in response to the termination trigger (col. 12 lines 11-24); and

routing the call to the services node based on the subscriber information, wherein the initiating further includes initiating the call to the digital cordless handset and the cellular telephone based on the subscriber information (col. 12 lines 11-24).

9. **Claims 45 and 46** are rejected under 35 U.S.C. 103(a) as being unpatentable over **O'Neil et al. (U.S. Patent # 5963864)** (hereinafter O'Neil) in view of **Rogalski et**

Art Unit: 2617

al. (U.S. Patent Application Pub. # 2004/0141484 A1) (hereafter Rogalski) in view of **Arazi et al. (U.S. Patent Application Pub. # 2008/0026775 A1)** (hereinafter Arazi).

Consider **claim 45 as applied to claim 43 above**, O'Neil as modified by Rogalski discloses the claimed invention except wherein the call is switched between at least one other wireless access point and the at least one wireless access.

In the same field of endeavor, Arazi discloses wherein the call is switched between at least one other wireless access point and the at least one wireless access (FIG. 1, abstract, par. 0015, 0027).

Therefore, it would have been obvious to a person or ordinary skill in the art at the time the invention was made to incorporate the method of handing off a handset device from one base station to another base station as taught by Arazi to method of providing a service to a cordless handset as disclosed by O'Neil as modified by Rogalski for purpose of provided for handing off calls of a cordless handset from a one Base Station to another (neighboring) Base Station.

Consider **claim 46 as applied to claim 45 above**, and Arazi further discloses wherein the call is serviced via the data network utilizing a first wireless transmission area and a second wireless transmission area (FIG. 1, par. 0015, 0027 and 0065).

Therefore, it would have been obvious to a person or ordinary skill in the art at the time the invention was made to incorporate the method of handing off a handset device from one base station to another base station with different coverage areas as

Art Unit: 2617

taught by Arazi to method of providing a service to a cordless handset as disclosed by O'Neil as modified by Rogalski for purpose of provided for handing off calls of a cordless handset from a one Base Station to another (neighboring) Base Station with different coverage areas.

10. **Claims 47 and 53** are rejected under 35 U.S.C. 103(a) as being unpatentable over **O'Neil et al. (U.S. Patent # 5963864)** (hereinafter O'Neil) in view of **Rogalski et al. (U.S. Patent Application Pub. # 2004/0141484 A1)** (hereafter Rogalski) in view of **Kallio (U.S. Patent Application Pub. # 2002/0147008 A1)**.

Consider **claim 47 as applied to claim 43 above**, O'Neil as modified by Rogalski discloses the claimed invention except wherein the at least one digital cordless handset is associated with an identification information transferred from a wireless network to the data network, and wherein the at least one wireless access point is further configured to provide information associated with at least one of a voice service or a data service to the digital cordless handset based on the identification information.

In the same field of endeavor, Kallio discloses wherein the at least one digital cordless handset is associated with an identification information transferred from a wireless network to the data network, and wherein the at least one wireless access point is further configured to provide information associated with at least one of a voice service or a data service to the digital cordless handset based on the identification information (par. 0024).

Therefore, it would have been obvious to a person or ordinary skill in the art at the time the invention was made to incorporate an algorithm for confirming the identity of a user in a WLAN and a cellular network as taught by Kallio to method of using a single phone number for several devices as disclosed by O'Neil as modified by Rogalski for purpose of using a single device in different networks with different protocols.

Consider **claim 53 as applied to claim 52 above**, and Rogalski further discloses wherein the initiating cal further providing, via the wireless access point, the at least one of the voice service or the data service via the digital cordless handset during the call (par. 0024, 0038).

However, O'Neil as modified by Rogalski fails to explicitly disclose obtaining identification information from the digital cordless handset; and determining at least one of a voice service or a data service based on the identification information.

In the same field of endeavor, Kallio discloses obtaining identification information from the digital cordless handset (par. 0024 and 0029); and

determining at least one of a voice service or a data service based on the identification information (par. 0029-0030);

Therefore, it would have been obvious to a person or ordinary skill in the art at the time the invention was made to incorporate an algorithm for confirming the identity of a user in a WLAN and a cellular network as taught by Kallio to method of using a single phone number for several devices as disclosed by O'Neil as modified by Rogalski for purpose of using a single device in different networks with different protocols.

11. **Claims 59, 67, 68 and 71** are rejected under 35 U.S.C. 103(a) as being unpatentable over **O'Neil et al. (U.S. Patent # 5963864)** (hereinafter O'Neil) in view of **Kallio (U.S. Patent Application Pub. # 2002/0147008 A1)**.

Consider **claim 59**, O'Neil discloses a system comprising:

a wireless access point coupled to a services node of a data network (FIGS. 1, 2 and 3 for the service node 30 and the wireless network home base station 42 which is considered as the access point, col. 12 lines 25-61, col. 27 lines 4-26), wherein the services node is configured to initiate a call to a cordless handset and a cellular telephone based on a termination trigger generated within the data network (FIGS 1-3, col. 4 lines 11-26, col. 7 lines 62-65, col. 27 lines 4-26, consider the digital cordless handset as one of the telephone 20e or 20f), and wherein the call is serviceable via a cellular telephone connection if the call is answered via the cellular telephone, based on the telephone number (FIGS. 1-3 for the mobile telephone 34, abstract, col. 20 line 66 though col. 21 line 47).

However, O'Neil fails to explicitly disclose the cordless handset, and wherein the wireless access point is configured to service the call via a Bluetooth wireless connection between the wireless access point and the cordless handset if the call is answered via the cordless handset.

In the same field of endeavor, Kallio discloses the cordless handset (par. 0007), and wherein the wireless access point is configured to service the call via a Bluetooth

Art Unit: 2617

wireless connection between the wireless access point and the cordless handset if the call is answered via the cordless handset (FIG. 1, par. 0023 and 0006-0007; par. 0023 indicates, "BlueTooth networks and/or Wideband CDMA... may be used in place of the wireless local area networks (WLAN)...").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a multi-mode mobile handset to access digital cordless telephone (DECT) to connect through a WLAN access point with BlueTooth network as taught by Kallio to the telecommunication extension service to a subscriber having different units in wired and wireless network as disclosed by O'Neil for purpose of using a WLAN based on Bluetooth technology to provide voice and data service to cordless phones.

Consider **claim 60**, O'Neil as modified by Kallio discloses the claimed invention **as applied to claim 59 above**, and O'Neil further discloses wherein the data network is configured to direct the call to a broadband residential gateway wherein the call is serviceable via a wired network device if the call is answered by the wired network device (FIG. 1, abstract, col. 4 lines 11-26, col. 7 lines 62-65, col. 27 lines 4-26)

Consider **claim 67**, O'Neil as modified by Kallio discloses the claimed invention **as applied to claim 59 above**, and O'Neil further discloses wherein the call is an incoming call (col. 21 line 65 to col. 22 line 33).

Consider **claim 68**, O'Neil as modified by Kallio discloses the claimed invention **as applied to claim 59 above**, and O'Neil further discloses wherein the call is an outgoing call (col. 21 line 65 to col. 22 line 33; the call could be considered as outgoing call from a caller).

Consider **claim 71**, O'Neil as modified by Kallio discloses the claimed invention **as applied to claim 59 above**, and O'Neil further discloses obtaining, via a service control point, subscriber information based on the termination trigger, wherein the services node is further configured to initiate the call based on the subscriber information (col. 12 lines 11-24).

12. **Claim 62** is rejected under 35 U.S.C. 103(a) as being unpatentable over **O'Neil et al. (U.S. Patent # 5963864)** (hereinafter O'Neil) in view of **Kallio (U.S. Patent Application Pub. # 2002/0147008 A1)** in view of **Jones et al. (U.S. Patent # 6404764 B1)** (hereafter Jones).

Consider **claim 62 as applied to claim 60 above**, O'Neil as modified by Kallio discloses the claimed invention except wherein the broadband residential gateway is further configured to service the call via a local wired network including a home phone networking alliance network.

In the same field of endeavor, Jones discloses wherein the broadband residential gateway is further configured to service the call via a local wired network including a home phone networking alliance network (FIG. 1 and lines 14-5 of col. 2; or FIG. 2 for

Art Unit: 2617

digital IP devices 30 and lines 23-25 of col. 5).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a network premises gateway including the telephone network in a house as taught by Jones to be connected between the WLAN and wired network as disclosed by O'Neil as modified by Kallio for purpose of providing access to different devices in a home network.

Double Patenting

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory

Art Unit: 2617

double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 43, 45, 47, 52—54, 56, 59, 60 and 62-67 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over **claims 1, 4, 7-12, 14-18, 23-32 and 34-41 of U.S. Patent No. 7,657,270 B2**. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

The limitations of the independent claims 43, 52 and 59 of the current application are included in the independent claim 1 in combination with the dependent claims 7, 11 and 12 of the US Patent No. 7,657,270 B2; independent claims 14 with combination of dependent claim 18, 21, 23-26 of the US Patent No. 7,657,270 B2; independent claim 27 with combination of the dependent claims 30 and 31 of the US Patent No. 7,657,270 B2; and independent claim 32 with combination with dependent claims 34, 40 and 41 of the US Patent No. 7,657,270 B2.

The limitation of the dependent claim 45 of the current application is included in the independent claims 14 and 32 of the US Patent No. 7,657,270 B2.

The limitation of the dependent claims 47 and 53 of the current application are included in claims 10 and 39 of the US Patent No. 7,657,270 B2.

Art Unit: 2617

The limitation of the dependent claims 54 and 56 of the current application are included in claims 9 and 38 of the US Patent No. 7,657,270 B2.

The limitation of the dependent claim 60 and 62 of the current application are included in the independent claims 1, 14, 27 and 32 of the US Patent No. 7,657,270 B2.

The limitation of the dependent claims 63, 64, 67 and 68 of the current application are included in claims 15, 16, 17 and 27-29 of the US Patent No. 7,657,270 B2.

The limitation of the dependent claims 65 and 57 of the current application are included in claims 11-12; 25-26; 30-31; and 40-41 of the US Patent No. 7,657,270 B2.

Conclusion

14. Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Allahyar Kasraian whose telephone number is (571) 270-1772. The Examiner can normally be reached on Monday-Thursday from 8:00 a.m.

Art Unit: 2617

to 5:00 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Pérez-Gutiérrez can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Allahyar Kasraian/

Examiner, Art Unit 2617

/Rafael Pérez-Gutiérrez/

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